

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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|--|---|------------------------|
| In the Matter of |) | EB Docket No. 03-152 |
| |) | |
| WILLIAM L. ZAWILA |) | Facility ID No. 72672 |
| |) | |
| Permittee of FM Station KNKS, Coalinga, California |) | |
| |) | |
| AVENAL EDUCATIONAL SERVICES, INC. |) | Facility ID No. 3365 |
| |) | |
| Permittee of FM Station KAAX, Avenal, California |) | |
| |) | Facility ID No. 9993 |
| CENTRAL VALLEY EDUCATIONAL SERVICES, INC. |) | |
| |) | |
| Permittee of FM Station KAJR, Firebaugh, California |) | |
| |) | Facility ID No. 22030 |
| H. L. CHARLES D/B/A FORD CITY BROADCASTING |) | |
| |) | |
| Permittee of FM Station KZPE, Ford City, California |) | |
| |) | Facility ID No. 37725 |
| LINDA WARE D/B/A LINDSAY BROADCASTING |) | |
| |) | |
| Licensee of FM Station KZPO, Lindsay, California |) | |
| |) | File No. BR-19970804YJ |
| WESTERN PACIFIC BROADCASTING, INC. |) | Facility ID No. 71936 |
| |) | |
| For Renewal of License for AM Station KKFO, Coalinga, California |) | |

To: Marlene H. Dortch, Secretary
Attn: Chief Administrative Law Judge Richard L. Sippel

ENFORCEMENT BUREAU'S COMMENTS
PURSUANT TO ORDERS, FCC 15M-11 AND FCC 15M-17

1. On March 19, 2015, the Presiding Judge ordered Messrs. Zawila and White to submit evidence that establishes the owners, officers, and any other individuals who control the operations of Avenal Educational Service, Inc. (Avenal), which is the permittee of FM station KAAX, and of Central Valley Educational Services, Inc. (Central Valley), which is the permittee of FM station KYAF (formerly KAJP).¹ The Presiding Judge also ordered Mr. Zawila to submit evidence demonstrating that he is authorized to serve as counsel for, or otherwise represent, Avenal or Central Valley if he is not an owner, officer or individual who controls their operations.² The Presiding Judge allowed the Enforcement Bureau (Bureau) the opportunity to submit additional information concerning the control of Avenal and Central Valley, as well as to respond to the evidence submitted by Messrs. Zawila and White. The Bureau submitted its comments in response to Messrs. Zawila's and White's filings on May 12, 2015.³ On May 13, 2015, the Presiding Judge issued *Order*, FCC 15M-17, directing all of the parties to resubmit their pleadings.⁴ Accordingly, the Bureau herein resubmits its response to Messrs. Zawila's and White's original filings.⁵

¹ See *Order*, FCC 15M-11 (ALJ, rel. Mar. 19, 2015).

² See *id.* at 2.

³ On April 3, 2015, counsel for Mr. White (and Avenal and Central Valley) filed a motion for extension of time to respond to the Presiding Judge's *Order*, FCC 15M-11, until May 4, 2015. See Motion for Extension of Time, filed Apr. 3, 2015. Counsel proposed that any responsive filings be due Monday, May 11, 2015. See *id.* The Bureau did not oppose this request for an extension, but respectfully requested that its responsive pleading be due on May 12, 2015, which would provide the Bureau with the same six business days to respond as is set forth in *Order*, FCC 15M-11. In the absence of any further instruction from the Judge, the Bureau acted in accordance with the timeline it proposed. See Enforcement Bureau's Comments Pursuant to *Order*, FCC 15M-11, filed May 12, 2015.

⁴ See *Order*, FCC 15M-17 (ALJ, rel. May. 13, 2015).

⁵ The Bureau agrees with the Presiding Judge that the question of whether Avenal and Central Valley were qualified applicants under Section 75.503(a) of the Commission's rules at the time they filed their applications has not been designated to the Presiding Judge as part of the Order To Show Cause, Notice of Opportunity For Hearing, and Hearing Designation Order (HDO). See *Order*, FCC 15M-17, at 3. Although the Bureau believed it was being

The Question of Who Owns And/Or Controls Avenal and Central Valley Remains Unclear

2. In accordance with the Presiding Judge's *Order*, FCC 15M-11, Messrs. Zawila and White each submitted pleadings purporting to establish their ownership and/or authorization to control Avenal and Central Valley.⁶ Neither pleading, however, appears to affirmatively establish the ownership and/or control of these companies, and the Commission's records fail to provide any greater illumination on the question. Indeed, the Commission's records can confirm only that Mr. Zawila represented himself on numerous occasions as authorized to act on behalf of Avenal and Central Valley,⁷ that certain documents are addressed to what Mr. White suggests is his home address,⁸ and that Mr. White has challenged Mr. Zawila's purported authority in filings before the Commission.⁹ In addition, Messrs. Zawila's and White's submissions are both supported by self-serving declarations concerning Avenal and Central Valley's corporate actions and the various iterations of the companies' boards of directors which the Bureau cannot substantiate.¹⁰ Although counsel for Mr. White suggests that the Presiding Judge allow limited discovery to investigate the statements made in these declarations,¹¹ the Bureau opposes this request.

helpful to the Presiding Judge and his staff in its earlier pleading by offering a way of simplifying the issues moving forward, we apologize for burying what amounted to a separate motion within our initial response to *Order*, FCC 15M-11. Accordingly, the Bureau has removed those arguments from the instant pleading and has slightly modified the instant pleading to accommodate those changes.

⁶ See, e.g., [Zawila's] Status Report Regarding Verne J. White and Ownership and Control of KAAX and KYAF (Formerly KAJF), filed Apr. 7, 2015 (Zawila's Status Report); [White's] Evidence Regarding Ownership, filed May 4, 2015 (White's Status Report).

⁷ See, e.g., File Nos. BAPED-20150403ABF and BAPED-20150403ABD, located in the Commission's CDBS.

⁸ See, e.g., File Nos. BPED-19890320MB, BMPED-19940913JA, BMPED-19960826IA, BPED-19971112JA, BPED-19881017MD, BMPED-19971024IC, located in the Commission's CDBS.

⁹ See *In re Avenal Educational Services, Inc. and Lazer Broadcasting Corp.*, File No. BAPED-20040217AEG and *Central Valley Educational Services, Inc. and Lazer Broadcasting Corp.*, File No. BAPED-20040217AEH, Informal Objection (July 7, 2004) and Joint Response To Informal Objection (July 2004), each of which are located in the Commission's CDBS.

¹⁰ See, e.g., Zawila's Status Report at Exhibits 1-3; White's Status Report at Declaration of Verne J. White.

¹¹ See White's Status Report at 4-5.

3. As the Presiding Judge correctly noted, “this proceeding cannot proceed until questions raised by Mr. Zawila and Mr. White regarding ownership and control over Avenal and Central Valley are resolved.”¹² The Bureau agrees with the Presiding Judge and recognizes that it is important to determine who had the authority to make representations on behalf of Avenal and Central Valley concerning the construction and/or operation of Stations KAAX (FM) and KYAF (FM) and who was responsible for ensuring that Avenal and Central Valley complied with Commission’s rules concerning the operation of these Stations. Because the Commission’s records fail to clarify Avenal and Central Valley’s corporate ownership and control, and the determination may rest on issues of California law concerning allegedly fraudulent corporate filings,¹³ the Bureau suggests that such questions may be better resolved outside the context of this proceeding, either between the parties or in a California court. Thus, the Bureau believes the Issues related to Avenal, Central Valley, and the two disputed stations should be removed from this proceeding until the ownership issues are addressed. Accordingly, the Bureau is filing contemporaneously a motion for leave to file a motion to delete the portions of Issues 113(a)-(e) of the HDO concerning Avenal, Central Valley, and the two disputed stations.

¹² *Order*, FCC 15M-11, at 2

¹³ *See, e.g.*, Zawila’s Status Report at 4-6.

Respectfully submitted,

Travis LeBlanc
Chief, Enforcement Bureau

A handwritten signature in black ink, appearing to read "Judy Lancaster", is written over a horizontal line.

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May 22, 2015

CERTIFICATE OF SERVICE

Alicia McCannon, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 22nd day of May, 2015, sent copies of the foregoing "ENFORCEMENT BUREAU'S COMMENTS PURSUANT TO *ORDERS*, FCC 15M-11 AND FCC 15M-17" to:

The Honorable Richard L. Sippel
Chief Administrative Law Judge
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